

### **REMARKS**

Claims 1-45 are pending in the Application. No new matter has been added. Entry of the amendment is respectfully requested. Reconsideration is respectfully requested.

Support for the additional claims may be found in the disclosure, for example the original claims and the Specification beginning at page 138, line 4. Also note the Specification at page 123, lines 8-10; at page 127, lines 5-14; and at page 154, lines 14-22.

### **Information Disclosure Statement**

Applicants again request acknowledgment of their Information Disclosure Statement filed December 22, 2000.

### **The Rejections**

Claims 1, 10-14, and 26-27 were rejected under 35 U.S.C. § 102(e) as being unpatentable over Kraft (U.S. 5,502,944).

Claims 2, 9, and 15-23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kraft in view of Liff (U.S. 5,797,515).

Claims 3-8 and 24-25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kraft in view of Liff and Official Notice.

These rejections are respectfully traversed.

### **The 35 U.S.C. § 102(e) Rejections**

Kraft does not teach storing "data representative that the type medical item has been dispensed for use by the patient, and that the type medical item has been dispensed from the dispenser" (claim 1, step (e)).

Kraft does not verify that a medical item has been "dispensed." Therefore, Kraft cannot store data to the effect. Kraft indicates that as an individual medication is being dispensed, the system controller (34) records "information" (col. 5, lines 6-7). Apparently, this "information" refers to the medication, dose size, patient's name, room number, and the doctor's name (col. 5, lines 1-6). However, there is no evidence of recording that the medical item "has been dispensed" (claim 1, step (e)). Kraft does not include in a data store that a medical item "has been dispensed," responsive to "execution" of the dispensing of the medical item from the dispenser. Kraft teaches no link between verifying that a medical item was actually dispensed and the recording of the medical item. Kraft does not check (or know) if an item was factually dispensed, and would record an item that was not actually dispensed (e.g., due to a dispensing malfunction). It follows that Kraft does not teach "that the type medical item has been dispensed for use by the patient."

Nor does Kraft record information that a medical item has been dispensed from a dispenser. For example, claim 1 recites "a medical item dispenser" (step (b)) and refers back to "the dispenser" in steps (c), (d), and (e). Claim 1, at step (e), recites "including in the data store . . . that the type medical item has been dispensed from the dispenser." Where does Kraft record information that a particular type of medical item has been dispensed from a specific dispenser?

Thus, Applicants respectfully submit that Kraft does not anticipate claim 1. It follows that the 35 U.S.C. § 102(e) rejections should be withdrawn.

### **The 35 U.S.C. § 103(a) Rejections**

#### **Liff Does Not Constitute Prior Art**

As previously discussed in Applicants' Response filed September 25, 2002, Liff does not constitute prior art. Applicants' previous remarks concerning Liff are herein substantially repeated.

For purposes of 35 U.S.C. § 103(a) the Liff reference has a filing date of May 3, 1996 and claims priority as a continuation-in-part of U.S. Patent No. 5,713,485 filed October 18, 1995. However, as previously discussed, the present invention is entitled to earlier priority, including at least the December 16, 1994 filing date of U.S. Patent No. 5,790,409. Thus, the Liff reference cannot constitute prior art pursuant to 35 U.S.C. § 103(a).

For example, the present invention claims priority to at least the December 16, 1994 filing date of U.S. Application No. 08/361,783 (U.S. Patent No. 5,790,409). U.S. Patent No. 5,790,409 supports steps (a)-(e) recited in claim 1. For example, note step (a) support at Patent col. 3, lines 20-37, col. 9, lines 1-33, and col. 16, lines 46-63; step (b) support at col. 10, lines 56-67; step (c) support at col. 8, lines 59-67; step (d) support at col. 18, lines 20-22; and step (e) support at col. 20, lines 17-29.

For reasons of brevity the Applicants have not necessarily presented all of the supporting basis in all of the earlier applications to which Applicants are entitled priority, including U.S. Patent No. 5,790,409. Applicants reserve the right to later present additional reasons. Nevertheless, the Applicants have shown that the Liff reference does not constitute prior art.

Furthermore, Applicants "may overcome a 35 U.S.C. § 103 rejection based on a combination of references by showing completion of the invention by applicant prior to the effective date of any of the references" (MPEP § 715.02). Therefore, any rejection involving the Liff reference is invalid. Since all of the 35 U.S.C. § 103(a) rejections involve Liff, they are all moot. Therefore, it is respectfully submitted that the 35 U.S.C. § 103(a) rejections should be withdrawn.

#### **Fees For Additional Claims**

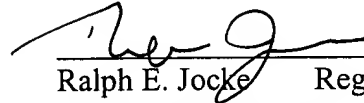
Please charge the fees associated with the submission of eighteen (18) claims in excess of twenty claims (\$324) and any other fee due to Deposit Account 10-0637 (Walker & Jocke).

#### **Conclusion**

Each of Applicants' pending claims specifically recite features and relationships that are neither disclosed nor suggested in the applied prior art. Furthermore, the applied prior art is devoid of any such teaching, suggestion, or motivation for combining features of the applied art so as to produce Applicants' invention. Allowance of all of Applicants' pending claims is therefore respectfully requested.

The undersigned will be happy to discuss any aspect of the Application by telephone at the Office's convenience.

Respectfully submitted,



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